

**Deposition Designations for:
JAMES G. HOPKINS
February 24, 2000**

Deposition Designation Key

**Arrowood = Arrowood Indem. Co.
f/k/a Royal Indem. Co. (Light Green)**

BNSF = BNSF Railway Co. (Pink)

Certain Plan Objectors “CPO” = Government Employees Insurance Co.; Republic Insurance Co. n/k/a Starr Indemnity and Liability Co.; OneBeacon America Insurance Co.; Seaton Insurance Co.; Fireman’s Fund Insurance Co.; Allianz S.p.A. f/k/a Riunione Adriatica Di Sicurta; and Allianz SE f/k/a Allianz Aktiengesellschaft; Maryland Casualty Co.; Zurich Insurance Co.; and Zurich International (Bermuda) Ltd.; Continental Casualty Co. and Continental Insurance Co. and related subsidiaries and affiliates; Federal Insurance Co.; and AXA Belgium as successor to Royal Belge SA (Orange)

CNA = Continental Cas. Co & Continental Ins. Co. (Red)

**FFIC = Fireman Funds Ins. Co. (Green)
FFIC SC = Fireman Funds Ins. Co. “Surety Claims” (Green)**

GR = Government Employees Ins. Co.; Republic Ins. Co. n/k/a Starr Indemnity and Liability Co.

Libby = Libby Claimants (Black)

OBS = OneBeacon America Ins. Co. and Seaton Ins. Co. (Brown)

PP = Plan Proponents (Blue)

Montana = State of Montana (Magenta)

Travelers = Travelers Cas. and Surety Cos. (Purple)

UCC & BLG = Unsecured Creditors’ Committee & Bank Lenders Group (Lavender)

**AFNE = Assume Fact Not in
Evidence**

AO = Attorney Objection

BE = Best Evidence

Cum. = Cumulative

Ctr = Counter Designation

Ctr-Ctr = Counter-Counter

ET = Expert Testimony

F = Foundation

408 = Violation of FRE 408

H = Hearsay

IH - Incomplete Hypothetical

L = Leading

LA = Legal Argument

LC = Legal Conclusion

LPK - Lacks Personal Knowledge

LO = Seeking Legal Opinion

NT = Not Testimony

Obj: = Objection

R = Relevance

S = Speculative

UP = Unfairly Prejudicial under Rule 403

V = Vague

1 IN THE DISTRICT COURT OF THE NINETEENTH
2 JUDICIAL DISTRICT OF THE STATE OF MONTANA
3 IN AND FOR THE COUNTY OF LINCOLN
4

5 CAUSE NO. DV-99-133

6 JAMES G. HOPKINS and LOUISE)
7 HOPKINS, husband and wife,)
8 Plaintiffs,)
9 vs.)
10 W.R. GRACE & CO.-CONN., a)
11 Connecticut corporation,)
12 W.R. GRACE & CO., a Delaware)
13 corporation, W.R. GRACE & CO.,)
14 a/k/a GRACE, an association of)
15 business entities, and DOES I-IV,)
16 Defendants.)
17)
18)
19)
20)
21)
22)
23)
24)
25)

15 D E P O S I T I O N
16 OF

17 JAMES G. HOPKINS

18

19

20 Taken at the Law Offices of
21 Garlington, Lohn & Robinson, PLLP
22 199 West Pine
23 Missoula, Montana
24 Thursday, February 24, 2000 - 9:00 a.m.
25

23

24

25 Reported by Jolene Asa, RPR, and Notary Public
for the State of Montana, Flathead County

1 of the time we was on -- I can't remember the
2 address. It was Main Avenue, too, down a ways from
3 where we lived.

4 Q Were you renting an apartment?

5 A Renting there, yes.

6 Q So the first home you purchased was on
7 Main Avenue in '68?

8 A That was rented too.

9 Q So your first home was '73?

10 A Yes.

Libby

11 Q Jim, as you sit here today, how would you
12 describe your health?

13 A Not real good.

14 Q What problems do you have with your health
15 right now?

16 A I have extreme shortness of breath,
17 chronic coughing.

18 Q Any other problems?

19 A No.

20 Q Now, when you say you have extreme
21 shortness of breath, when do you recall first
22 noticing shortness of breath problems?

23 A Sometime after '94, it seemed to start as
24 a gradual change in my health.

25 Q Did you have any shortness of breath

Libby

1 problems prior to '94 that you recall?

2 A No.

3 Q When you say "After '94" that you --

4 A '94 is when I can say I started noticing
5 the changes.

6 Q And that was going to be my question. Was
7 there some event that precipitated you noticing this
8 more than others, or did you just notice it
9 generally from day to day?

10 A Just generally. Not day to day. It was
11 over a period of time, though.

12 Q After '94?

13 A Uh-huh.

14 Q And in what ways did you start to notice
15 it?

16 A Climbing stairs was the first thing I
17 really noticed.

18 Q Any particular stairs?

19 A At work.

20 Q Do you have to climb a lot of stairs at
21 work, or did you?

22 A Yes.

23 Q And could you describe for me how you
24 started to notice it? I mean, any particular number
25 of flights that you would walk, and then you'd start

Libby

1 getting shortness of breath? If you could describe
2 it as best you can, I'd appreciate it.

3 A As I say, it started gradually. It seemed
4 like I'd go up a couple of flights of stairs, and
5 I'd be winded. Then it progressed from there until
6 now one flight of steps just about does me in.

7 Q It's gotten progressively worse since '94?

8 A Yes.

9 Q Is there any time between '94 and the
10 present, Jim, that you recall a particular time
11 where it was significantly greater in terms of
12 severity, or has it pretty much been fairly
13 progressive?

14 A It's been progressive, yes.

15 Q Okay. You said extreme shortness of
16 breath. When would you say that you started
17 suffering from the extreme shortness of breath, as
18 you would define extreme?

19 A Between '97 and '99.

20 Q In the last couple years?

21 A Yes.

22 Q How about the coughing? Could you
23 describe for me the types of problems you have with
24 coughing on a daily basis?

25 A I have coughing daily, and it's usually a

Libby

1 fairly dry, nonproductive-type cough, worse at night
2 than in the daytime.

3 Q Are you able to sleep okay?

4 A Not real good.

5 Q Does the coughing keep you up at night?

6 A Yes.

7 Q You mentioned that it's usually dry and
8 nonproductive.

9 A Uh-huh.

10 Q At times is it productive?

11 A No. Not really. I don't spit up when I
12 cough or anything like that.

13 Q And you said that it's worse at night.
14 Could you give me a little bit more information,
15 say, like, on an hourly basis, on how often you can
16 recall coughing?

17 A Usually, when I cough, it's for a period
18 of time, and then it will settle down, and probably
19 two or three times a night.

20 Q And when you have one of these coughing
21 episodes two or three times in the evening, how long
22 does the coughing episode take on a usual --

23 A It varies.

24 Q How about a bad one? How long would a bad
25 one take?

Libby

1 A Ten minutes maybe.

2 Q And how often on the average would you say
3 you have one of these ten-minute coughing fits in
4 the evening? Is that daily?

5 A A couple times a week. It's not evening.
6 It's at night when I'm sleeping.

7 Q I'm sorry. So the worse ones seem to come
8 when you're lying down, trying to get to sleep?

9 A Yes.

10 Q Do you ever wake up in coughing fits?

11 A Oh, yes.

12 Q How often does that happen on the average?

13 A Average, I'd say a couple times a night.

14 Q Is there anything you can take for the
15 coughing, any medication that seems to provide you
16 some relief?

17 A No. I've never found anything. I've
18 tried over the counter, and I've tried prescription.

19 Q And nothing has seemed to provide relief
20 for it?

21 A No.

22 Q Are you currently on any type of
23 medication for the cough?

24 A No.

25 Q What types of over-the-counter stuff did

1 into the Air Force. There's 16 years' difference in
2 our ages.

3 Q So you moved to Libby in about '64?

4 A Yes.

5 Q And when were you married?

6 A '65.

Libby { 7 Q When you got out of the Air Force, what
8 was your first employment?

9 A W.R. Grace.

10 Q That was in September of '64?

11 A Yes.

12 Q And you worked for Grace until '90?

13 A Yes. April of '90.

14 Q Now, when you moved to Winnemucca in '90,
15 who did you work for?

16 A I worked for one year with First Miss
17 Gold.

18 Q Excuse me?

19 A First Miss Gold.

20 Q First Miss Gold?

21 A Yes.

22 Q What did you do for them?

23 A Instrumentation electrician.

24 Q Is that what you had ended doing for
25 W.R. Grace?

1 A No.

2 Q You filed a Workers' Comp claim for that?

3 A Yes.

4 Q Did you file any other Workers' Comp
5 claims through the years, other than the recent
6 accident last summer or your finger or the
7 asbestosis in the late '80s?

8 A Not that I can remember.

Libby 9 Q Jim, do you recall getting chest x-rays
10 done every year after starting with Grace?

11 A Yes.

12 Q Did you receive those reports?

13 A No, I did not.

14 Q You never received any of them until 1990?

15 A Right. Correct.

16 Q What was your understanding as to why you
17 were having those chest x-rays done?

18 A I thought they was checking our spines.

19 Q Not your chest?

20 A No.

21 Q Was that your understanding, that they
22 were checking your spines, from 1964 all the way to
23 1990?

24 A Around '79 is when they first started
25 talking about asbestos.

Libby

1 Q Is that about the time where you realized
2 that the chest x-rays were looking at your lungs?

3 A Yes.

4 Q Did you ever ask anyone at Grace why these
5 chest x-rays were done every year?

6 A They told us to do them. I mean, it was
7 just like -- It was part of our employment that we
8 were sent to get chest x-rays.

9 MR. MacDONALD: Excuse me.

10 (Brief recess.)

11 BY MR. MacDONALD:

12 Q Jim, you had expressed your understanding
13 about the chest x-rays. My question was, did you
14 ever ask why the chest x-rays were done?

15 A They just scheduled all of us to go in and
16 have them every year. That was part of our
17 employment.

18 Q But my question is, did you ever ask why?

19 A No. Like I say, it was, like, you wear a
20 hard hat. You go get a chest x-ray.

21 Q So you never asked why?

22 A No.

23 Q At least between '64 and '79, your
24 understanding was that they were checking your
25 spine?

1 injury lawsuits?

2 A No.

3 Q Have you ever been sued in any capacity?

4 A No.

5 Q Have you ever had any treatment for
6 alcohol-related problems?

7 A No.

8 Q This is my favorite one. Have you ever
9 had any treatment for psychiatric problems?

10 A No. We probably all should.

11 Q I'd be afraid to. I might never get out.

Libby

12 Now, when you started with W.R. Grace in

13 '64, what was the first thing you did with them?

14 A Mucking in the wet mill.

15 Q Do you remember about how long you did
16 that?

17 A Three weeks.

18 Q Who was your supervisor?

19 A Al Nicholls.

20 Q And when you began work there in '64, were
21 you provided any safety equipment when you started?

22 A Hard hat.

23 Q Was there any other safety equipment that
24 they told you about that you should get maybe on
25 your own?

1 A No.

2 Q Were you provided a respirator?

3 A Not when I started work there, no. After
4 I went into research. They had them in the

5 warehouse that we could get if you wanted them.

6 Q And so you worked under Al Nicholls in the
7 wet mill for about three weeks?

8 A Yes.

9 Q Then what did you do?

Libby [10 A I would have quit at the end of the third
11 week because I figured that wasn't the way to make a
12 living, but they came in and asked me to take a test
13 for mine research, a math-type test, and I was given
14 the job in mine research after that.

15 Q How long did you work in mine research?

16 A Two, three years.

17 Q And what did you do in mine research?

18 A Assaying.

19 Q Testing the quantity of the materials?

20 A Yes.

21 Q And what type of materials were you
22 testing for?

23 A Vermiculite.

24 Q What were the contaminants you were
25 testing for?

1 Q Did most all of the others in mine
2 research wear respirators in the dusty areas?

3 A No.

4 Q Can you remember any that didn't
5 specifically as you sit here today?

6 A There wasn't a lot of people that wore
7 respirators up there. There was a few in the dry
8 mill and that, but it wasn't a general --

9 Q It wasn't a general thing?

10 A No.

11 Q Okay. But you remember seeing a few of
12 them wearing respirators in the dry mill?

13 A Yes.

Libby

14 Q How much contact did you have with the dry
15 mill when you were in mine research?

16 A The dry mill set right beside the lab.

17 Q So you had a lot of contact with it?

18 A It wasn't that I was going into the dry
19 mill, but the dust from the dry mill was all over us
20 all the time.

21 Q Okay. How much contact did you have with
22 the inside of the dry mill in terms of going inside
23 it?

24 A Very little until I went into the
25 electrical instrumentation.

Libby

1 Q So you were in the mine research for two
2 to three years, and then where did you go?

3 A Then I went to the secondary -- Part of my
4 mine research was running the mobile test lab up in
5 the mine, and then from there I went into drilling
6 and blasting.

7 Q How long were you in drilling and
8 blasting?

9 A From -- It's hard to put years on this
10 without going back into my records, but I was in
11 there until '73. First I was on the secondary drill
12 and blasting. Then I was on the big blast hole
13 drill.

14 Q And then what did you do in '73?

15 A Went into electrical instrumentation.

16 Q And that's where you stayed until '90?

17 A Yes.

18 Q I think from Schimke's record, as I
19 understand it, it indicated that your exposure to
20 dust was pretty minimal after you got into
21 electrical instrumentation.

22 A Not really minimal, because when I first
23 went in there, we was still having to work in the
24 old dry mill at times too. When I first went in
25 there, they was trying to get the new mill started,

Libby [

1 but they was still running the old mill, and we'd
2 have to go in there and pull maintenance.

3 Q Would you wear a respirator when you were
4 in the old dry mill?

5 A You couldn't see your hand in front of
6 you.

7 Q So did you wear a respirator?

8 A Yes. And then there was other areas
9 around there that was quite dusty too, like the skip
10 system, river loading, screen plant.

11 Q But in all of these jobs, you were pretty
12 good about wearing a respirator when you were in
13 real dusty areas?

14 A Yes. I just didn't like having to blow my
15 nose and see that stuff come out all of the time.

16 Q Who was your supervisor when you went into
17 the drilling and blasting area?

18 A Lou Krupp.

19 Q Lou Krupp?

20 A Krupp.

21 Q Did Lou Krupp ever tell you to wear a
22 respirator in dusty areas?

23 A No.

24 Q When you first started there in '64 and
25 when you first started in the mine research

1 Q How about the rotary drill or secondary
2 drill while drilling? Do you ever recall it being a
3 rule to wear a respirator while doing those
4 activities?

5 A No.

6 Q That's even when you were in the drilling
7 and blasting?

8 A Right.

9 (Exhibit 8 was marked.)

10 BY MR. MacDONALD:

Libby

11 Q Between 1964 up to, let's say, '79, Jim,
12 do you recall the dust conditions up at the mine
13 ever getting any better, any improvement?

14 A The only thing they done in the mine for
15 dust was -- Originally, they put oil on the roads,
16 and then in the later years I think they went to mag
17 chloride or something like that. That was the only
18 thing I ever seen for dust in the mine.

19 Q How about when you were in the mine
20 research department? Do you recall any efforts
21 being made by W.R. Grace or things being done to
22 reduce the dustiness up there?

23 A No.

24 Q After you were out of mine research, do
25 you recall W.R. Grace doing anything to reduce the

Libby

1 dusty conditions up there at all in any department,
2 not just the mine, anywhere up there?

3 A What time frame are you talking?

4 Q You had just indicated that during mine
5 research you don't recall W.R. Grace doing anything
6 to improve the conditions.

7 A No.

8 Q All I want to do is follow up on that.
9 After you were out of mine research, do you recall
10 W.R. Grace doing anything to improve the dusty
11 conditions up there?

12 A The first thing that I can say that they
13 actually done anything about dust was when they
14 built the new mill. It had a baghouse for the
15 dryer.

16 Q Jim, was it your understanding that that
17 was at least a partial reason why they were building
18 the new wet mill, to reduce the dustiness from the
19 old dry mill?

20 A They was trying to increase their tonnage,
21 the production.

22 Q It was never your understanding that they
23 were building that also to reduce the dust
24 considerably from the old dry mill?

25 A I don't remember hearing it said that way.

Libby

1 It was a wet process, was the big difference, but I
2 don't remember anybody saying it was to reduce the
3 dust at all.

4 Q Outside of the new mill and outside of, I
5 think you had said, putting oil on the roads, do you
6 recall, after getting out of the mining research
7 department, W.R. Grace doing anything to improve the
8 dusty conditions up there?

9 A With the new mill they had some baghouses,
10 but then toward the end they had an injection system
11 at the screening plant for supposedly adhering the
12 dust to the ore, but that was as it left the
13 screening plant, after it had all been processed.

14 Q Was that in the '80s?

15 A Yes. Late '80s.

16 Q Anything else over the years that you
17 recall W.R. Grace doing to reduce the dust?

18 A No.

19 Q Did you ever make any complaints to
20 management about the dusty conditions up there at
21 the mine?

22 A Everybody complained about the dust.

23 Q Was it a common topic amongst the workers?

24 A It was annoying.

25 Q You couldn't get away from it?

1 A No, you couldn't.

2 Q Is it fair to say that that's pretty
3 consistent from 1964 through 1990, that everybody
4 seemed to complain about the dust up there?

5 A Yes.

6 Q Who did you complain to when you did
7 complain? Was it usually just coworkers, or did you
8 ever complain to supervisors?

9 A Supervisors and coworkers.

10 Q And how did the supervisors usually
11 respond when you would say something?

12 A Got to have it fixed, referring to -- If
13 something was broke down, like, say, in the tunnels
14 under river loading or something, They've got to
15 have it fixed to get their production going.

16 Q And then would they get it fixed?

17 A Yes.

18 Q Did you ever have discussions with
19 management regarding the dangers of the dust?

20 A Not until '79 or later.

Libby

21 Q Prior to '79 did you know that asbestos in
22 the dust could be harmful?

23 A Prior to '79 they told us it was a
24 nuisance dust.

25 Q And who is that, when you say "They"?

Libby

1 A Ray Kujawa was one of them. He said you
2 could eat that stuff three meals a day and it
3 wouldn't hurt you.

4 Q Have you ever heard of Zono bread?

5 A I heard of it, but I've never seen any of
6 it.

7 Q That's what he would say is that you could
8 eat a ton of it; is that correct?

9 A Yeah.

10 Q You don't recall him ever saying that you
11 could breathe a ton of the dust, do you?

12 A He never said -- He said, It's a nuisance,
13 and it isn't going to hurt you.

14 Q Now, in '79 how did you learn that it was
15 worse than a nuisance dust?

16 A That's when the company first started
17 telling us about it and having meetings with,
18 mainly, the smokers.

19 Q And you had worked there at that time
20 about 15 years?

21 A Yeah.

22 Q Were you angry when you found out that the
23 dust could be harmful?

24 A I wouldn't say angry. I'd say more
25 confused that all of a sudden they're telling us

1 or vehicle?

2 A It's illegal.

3 Q You have to get out, obviously, but do you
4 do any road hunting or anything like that?

5 A No.

6 Q What kind of things -- I'll step back one
7 question.

8 A I'm just still snickering about hunting
9 from a car, a lawyer telling something illegal.

10 Q I didn't mean hunting from the car itself,
11 but driving when you were hunting.

12 You mentioned you had problems sleeping.
13 When did you first notice you were having problems
14 with your sleep?

15 A The last three or four years.

16 Q And is it primarily the cough that gives
17 you the problem when you're sleeping?

18 A That's the thing that wakes me up the
19 most, yes.

Libby

20 Q And you mentioned some of the activities
21 you liked to do. Which of those can you not do now
22 because of your shortness of breath?

23 A I can't hunt, and swimming -- I'm severely
24 restricted on how far I can go. I mean, it used to
25 be I'd take the boat and go out in the middle of the

Libby

1 lake and jump out of the boat and go swimming and
2 didn't care how deep the water was. Now I swim
3 where I can stand up when I need to because I can't
4 swim any distance anymore.

5 Q Besides the swimming and walking uphill
6 for your hunting, is there anything else that you
7 can't do that you used to like to do before you had
8 the shortness of breath?

9 A I don't get into the woodworking like I
10 used.

11 Q Why is that?

12 A Dust.

13 Q Did you ever consider wearing a
14 respirator?

15 A I do have one.

16 Q Does that seem to help?

17 A Woodworking -- You're not breathing in the
18 sawdust and that when you have a respirator on.

19 Q And do you do much yard work?

20 A No.

21 Q Did you ever do much yard work?

22 A Mow the lawn. I've got the world's
23 brownest thumb.

24 Q What do you mean by that?

25 A I can kill plastic plants.